

James R. Bean, et al. v. Hunt Southern Group, LLC, et al.

Kim Emmett, M.D.

July 23, 2019

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Kim Emmett, M.D. 7/23/2019

Page 18

1 A. I believe the note says, this was a
2 transcription, it says, "notes, not shortness of
3 breath," probably should have been "no shortness of
4 breath at rest. Denies any cough. No chest pain or
5 heart palpitations, nausea, vomiting. He thinks he's
6 not able to exercise very well, becomes fatigued
7 easily."
8 Q. All right. Was Mr. Bean in the course of
9 your treatment with him before he moved to Mississippi,
10 did he have complaints, among other things, of fatigue?
11 A. Quite often.
12 Q. And what were those complaints? What did
13 they arise from?
14 A. I don't think it was well understood.
15 Q. All right.
16 A. Is what I -- he did, I believe he was
17 diagnosed with coronary artery disease at some point
18 within this time period.
19 Q. Right.
20 A. And --
21 Q. And will coronary artery disease, will
22 that, or can that result in a patient becoming
23 fatigued?
24 A. Some patients might.
25 Q. Okay.

Page 19

1 A. He also had problems with joint pain,
2 which I think were never clearly understood, so perhaps
3 some sort of an inflammatory joint problems.
4 I think he also had psoriasis. I
5 apologize, most people are fatigued with that.
6 Q. Okay. So at least in 2004 then, he was
7 complaining to you of fatigue; is that true?
8 A. That's what the note says.
9 Q. All right. The next one I want to take
10 you to is 3241.
11 A. Date of 6-6-2005?
12 Q. Yes, ma'am. So that's a date of visit of
13 June 6th, 2005; is that right?
14 A. I apologize, I have to open this up and
15 see.
16 Q. Is that right?
17 A. Yes, that's correct.
18 Q. And describe what symptoms Mr. Bean
19 presented with on that occasion to you.
20 A. Well, in the history he was talking about
21 cough and congestion, but he was evaluated for that.
22 Says "he's now having a productive cough with yellow
23 sputum," my note says. "No fever."
24 And then on the note, "not really short
25 of breath." Some people have difficulty describing

Page 20

1 their symptoms. And "does not have heart palpitations
2 or chest pain."
3 Q. All right. Does -- did he also complain
4 there in the second sentence of "runny nose, cough and
5 congestion"?
6 A. That's what my note says, yes.
7 Q. And what was your assessment with respect
8 to those complaints?
9 A. Well, for the runny nose and item number
10 four in assessment and plan, it says "allergic
11 rhinitis" and I had some samples of a nasal
12 antihistamine called Astelin that I gave to him.
13 And then for the yellow sputum, it says I
14 wrote a prescription for a Z-pack for bronchitis.
15 On exam, one exam, he had a few scattered
16 crackles, which cleared with coughing and I said his
17 ears appeared to be mildly distended with clear fluid
18 bilaterally, which can be seen with allergic rhinitis
19 from eustachian tube dysfunction.
20 Q. And what is allergic rhinitis?
21 A. Well, I would think it's common symptoms
22 of postnasal drip, runny nose. We use allergic
23 rhinitis as a catchall term, but some people don't
24 necessarily have allergies, they just have the
25 symptoms.

Page 21

1 Q. Right.
2 A. Might be called perennial rhinitis, so.
3 Q. And for rhinitis or for perennial
4 rhinitis or -- or allergic rhinitis, is that a fairly
5 -- you used the term catchall.
6 A. Uh-huh.
7 Q. Is that a common complaint among patients
8 across the board?
9 A. It's a common complaint here.
10 Q. Yeah.
11 A. Very common.
12 Q. Well, it's common for humans, isn't it?
13 We get rhinitis from time to time, don't we?
14 A. Right, but it's very common in this area
15 in particular.
16 Q. Yeah. And what are some of the causes of
17 a rhinitis?
18 A. Well, you know, most patients don't go
19 through allergy testing, they just pick up something
20 over-the-counter and so it could be -- it could be a
21 reaction to something in the environment, and when
22 people have allergy evaluations, which I don't do, but
23 they might be allergic to dust mites, which are common
24 in our environment, cockroaches, cat dander, trees,
25 grasses.

6 (Pages 18 to 21)

Kim Emmett, M.D. 7/23/2019

Page 26

1 get the impression that he was very physically active
 2 at that time.
 3 Q. Right. Did you also understand and I
 4 think it may be later in your practice that you
 5 diagnosed him with sleep apnea?
 6 A. He was probably referred to someone who
 7 diagnosed him with sleep apnea.
 8 Q. Okay.
 9 A. I don't evaluate for sleep apnea.
 10 Q. Fair enough. You sent him to a sleep
 11 specialist or somebody?
 12 A. That would be my general practice, yes.
 13 Q. Okay. But did you -- you are aware that
 14 Mr. Bean has sleep apnea, right?
 15 A. Yes.
 16 Q. Okay. And can sleep apnea cause fatigue?
 17 A. It can.
 18 Q. And how does that -- how does that
 19 happen?
 20 A. Well, my understanding is what happens is
 21 that patients do not achieve deeper stages of sleep or
 22 adequate sleep because their brain constantly has to
 23 awaken and have a -- have the chest or the lungs breath
 24 in. So people don't achieve, and they may also have a
 25 low oxygen level at times because they're not -- not

Page 28

1 A. This was in 2007. So yes, he did have
 2 symptoms of allergic rhinitis then.
 3 Q. And enough recurring symptoms for you to
 4 issue a prescription for Zyrtec for him.
 5 A. Yes.
 6 Q. And if you would look at 3265.
 7 Is that your record for Mr. Bean from
 8 March 21st of 2008?
 9 A. Yes.
 10 Q. And did Mr. Bean report fatigue on that
 11 occasion?
 12 A. I'm sorry. Let me look at the note here.
 13 Yes, he must have. I apologize.
 14 Q. Do you see the assessment number two?
 15 A. Yes, I do.
 16 Q. And what does it say?
 17 A. It says "fatigue," and I said "I think
 18 this is to be expected following his very prolonged
 19 serious illness."
 20 Q. And what series illness was that?
 21 A. I know that he had a biopsy, a prostate
 22 biopsy, and said he had to go to the emergency room
 23 with the -- oh, I'm sorry. He had fevers and I'm not
 24 sure that our office gave the Levaquin. It may have
 25 been the urologist.

Page 27

1 breathing regularly.
 2 Q. All right. So let's move on to 3252 and
 3 I know these are kind of jumping around. I apologize
 4 for that, or actually it's 3253.
 5 This is an office note of December 27th,
 6 2007. Do you see that?
 7 A. Yes, I see that.
 8 Q. Is that your --
 9 A. Yes.
 10 Q. -- record there?
 11 A. That's my handwriting, yes.
 12 Q. Okay. And what was -- I'm interested in
 13 the fourth assessment there.
 14 What was that?
 15 A. That on assessment and plan, allergic
 16 rhinitis, which was, I believe an ongoing issue for him
 17 and he simply wanted me to refill his antihistamine.
 18 Q. All right. And what antihistamine were
 19 you prescribing to him?
 20 A. Well, the brand name is Zyrtec, and I
 21 think the generic name is cetirizine. You don't really
 22 have to prescribe that anymore, it's over-the-counter.
 23 Q. Right. So is this another example of Mr.
 24 Bean diagnosed by you with allergic rhinitis before he
 25 moved to Mississippi?

Page 29

1 Q. All right.
 2 A. And it looks like he had to have a
 3 catheter for urinary retention, and then he also had a
 4 bout of extreme swelling in his face and tongue,
 5 angioedema.
 6 And it says he talked to his
 7 cardiologist, Dr. Weatherbee, and did not feel that --
 8 oh, this is angioedema. I'm sorry to wander here.
 9 Q. That's okay.
 10 A. All right. It looks like he went to a
 11 walk-in clinic too. So he had a series of events.
 12 Q. Yeah. And one of those too, it says,
 13 "Mr. Bean began having a cough productive of white
 14 sputum. He went to a walk-in clinic and was treated
 15 with a Z-pack. This is the slowly getting better."
 16 Right?
 17 A. I apologize.
 18 Q. Fourth from the last line.
 19 A. Fourth from the last line. Yes, I see
 20 that now.
 21 Q. All right.
 22 A. Did you have a question about that?
 23 Q. Yes. So like most patients, Mr. Bean had
 24 various upper respiratory complaints over the period of
 25 time that you treated him before he moved to

8 (Pages 26 to 29)

Kim Emmett, M.D. 7/23/2019

Page 30

1 Mississippi; is that correct?
 2 A. That is correct.
 3 Q. All right. And did you treat Mr. Bean
 4 for rhinitis before he moved to Mississippi?
 5 A. Yes.
 6 Q. On multiple occasions?
 7 A. Well, yes, I mean, the one note we
 8 alluded to he had a prescription for 90 days with three
 9 refills, so that would be over the course of a year.
 10 So, yes, multiple occasions.
 11 Q. All right. And did you treat Mr. Bean
 12 for fatigue before he moved to Mississippi?
 13 A. Well, he talked to me about fatigue, yes,
 14 that was mentioned.
 15 Q. Okay. Fair enough. And with respect to
 16 fatigue, you've already told us what some of the common
 17 causes of that are, correct?
 18 A. Yes.
 19 Q. Aging, coronary artery disease, sleep
 20 apnea and other things, all of which Mr. Bean had,
 21 right?
 22 A. Yes.
 23 Q. Did -- and what are the causes for the
 24 rhinitis?
 25 A. Well --

Page 32

1 the angioedema.
 2 Q. Okay. But in terms of the runny nose,
 3 congestion, did you determine what cause those were
 4 ever attributed to?
 5 A. I don't have a defined cause.
 6 Q. Okay.
 7 A. I provided treatment.
 8 Q. And same thing with the fatigue, did you
 9 determine, Dr. Emmett, what the cause of the fatigue
 10 was for Mr. Bean?
 11 A. I don't think there was a single cause.
 12 It's what we call multifactorial, different things.
 13 Q. All right. So before Mr. Bean moved to
 14 Mississippi he had reported on multiple occasions both
 15 rhinitis and fatigue to you in his treatment, correct?
 16 A. Yes.
 17 Q. All right. And turning to Exhibit Number
 18 2, which is the other stack that I gave you.
 19 A. Okay.
 20 Q. You can put that clip back on that thing.
 21 A. I need a bigger clip.
 22 Q. Okay. Great. You can just set that one
 23 over there.
 24 I want to draw your attention to Bates
 25 stamp page 1996.

Page 31

1 Q. Just in general.
 2 A. Okay. I'm so sorry.
 3 Q. That's okay.
 4 A. There could be allergic reaction to some
 5 environmental stimulus. There can be a reaction we
 6 don't quite understand that just stimulates the mucus
 7 glands to secrete mucus. Some people might be -- have
 8 a reaction to very strong smells, perfumes or the like,
 9 smoke.
 10 Q. All right.
 11 A. Okay. And I'm so sorry. There might be
 12 some medicines that maybe somebody might have a side
 13 effect.
 14 Q. All right.
 15 A. -- of runny nose with.
 16 Q. And did you ever in the course of your
 17 treatment with Mr. Bean before he moved to Mississippi,
 18 determine the cause of the rhinitis?
 19 A. I don't think so. He did go to see an
 20 allergy immunologist about his angioedema, the swelling
 21 that he had periodically in his lips and I would have
 22 to look at that note to see if he was tested for
 23 anything else. I apologize.
 24 Q. But that was just the swelling in his --
 25 A. That was the main reason, yes, he went,

Page 33

1 Does this look like your first office
 2 note since, upon Mr. Bean's return from Mississippi?
 3 A. Yes, it does.
 4 Q. And what's the date that you saw him?
 5 A. Thursday, September 22nd, 2016.
 6 Q. All right. And you're quite correct.
 7 You say in this note that it has been over three years
 8 since his last office appointment, right?
 9 A. Yes.
 10 Q. And was that because he was living in
 11 Mississippi in that interim time period?
 12 A. That is my understanding.
 13 Q. All right. What did he report about his
 14 medical issues to you in 2016?
 15 A. He updated me on his coronary artery
 16 disease that he had two stents placed while living in
 17 Mississippi. We talked about his hypertension briefly.
 18 And then still the problem with the hives
 19 and history of psoriasis. He requested a refill on his
 20 steroid cream.
 21 Q. All right. In the second line of the --
 22 CC is chief complaint, right?
 23 A. Yes. Yes.
 24 Q. The CC paragraph he says, "he reports his
 25 medical issues are about the same and stable."

9 (Pages 30 to 33)

Kim Emmett, M.D. 7/23/2019

Page 34	Page 36
<p>1 Do you see that?</p> <p>2 A. Yes, I do.</p> <p>3 Q. Did he at that occasion, have any</p> <p>4 complaints about his living conditions at Keesler</p> <p>5 military base in Mississippi?</p> <p>6 A. I don't recall that he discussed that</p> <p>7 with me.</p> <p>8 Q. Did he complain that he had any medical</p> <p>9 issues arising out of his living situation at Keesler?</p> <p>10 A. I don't recall that he discussed that</p> <p>11 with me.</p> <p>12 Q. Well, and in fact, he says his medical</p> <p>13 issues are about the same and stable, correct?</p> <p>14 A. That was my understanding.</p> <p>15 Q. Did he mention anything about mold to you</p> <p>16 or that he may have been exposed to mold while at</p> <p>17 Keesler?</p> <p>18 A. I don't recall that he did.</p> <p>19 Q. Sure. If he had mentioned that he had</p> <p>20 been exposed to mold, would you have written it down?</p> <p>21 A. I would try to, yes. Yes.</p> <p>22 Q. Yes, ma'am.</p> <p>23 A. My usual procedure, yes.</p> <p>24 Q. And in your -- you hadn't seen him for</p> <p>25 three years. I'm quite sure you took a history of</p>	<p>1 mold, would you have written it down?</p> <p>2 A. Generally, I would write it down.</p> <p>3 Q. Okay. And the fact that it's not in this</p> <p>4 piece of paper, does that indicate to you one way or</p> <p>5 another whether he mentioned mold?</p> <p>6 A. I think he probably did not mention it to</p> <p>7 me.</p> <p>8 Q. All right. Otherwise what?</p> <p>9 A. I would have generally, I'd write it down</p> <p>10 under review of systems and maybe on a problem although</p> <p>11 sometimes people will just tell me that they're</p> <p>12 allergic to mold and people will attribute a lot of</p> <p>13 symptoms to mold, so...</p> <p>14 Q. Yes, ma'am. And why do they do that?</p> <p>15 A. Because I think mold is very somewhat</p> <p>16 common. I mean, most people have been exposed to</p> <p>17 histoplasmosis just by living here, which is a common</p> <p>18 mold.</p> <p>19 So people will say sometimes that their</p> <p>20 symptoms, which might be a rhinitis, they're concerned</p> <p>21 about -- about mold.</p> <p>22 Q. And it's because we try to, as humans</p> <p>23 walking around the earth, we're not doctors, but we</p> <p>24 like oh, I saw mold and now I've got a runny nose, it</p> <p>25 must be the mold.</p>
Page 35	Page 37
<p>1 anything of significance that had occurred in the prior</p> <p>2 three years; is that fair?</p> <p>3 A. I think so.</p> <p>4 Q. And in response to the question I'm sure</p> <p>5 you asked, which was something along the lines of, is</p> <p>6 there anything that I need to know about your medical</p> <p>7 situation over the last three years, what did he tell</p> <p>8 you?</p> <p>9 A. Generally, I'll just ask for an update</p> <p>10 and I think he must have told me that he was glad to be</p> <p>11 back and that about his stents that he had.</p> <p>12 Q. All right. And the stents were for the</p> <p>13 coronary artery disease?</p> <p>14 A. That would be my understanding.</p> <p>15 Q. And is that the only thing he referenced</p> <p>16 about the change in any medical condition while he was</p> <p>17 living in Mississippi?</p> <p>18 A. He only talked about specialists</p> <p>19 evaluation for his urticaria, for his hives again while</p> <p>20 he was in Mississippi, and he asked for a refill on his</p> <p>21 Prednisone.</p> <p>22 Q. All right. So did Mr. Bean report</p> <p>23 anything to you about mold?</p> <p>24 A. I don't recall that he did.</p> <p>25 Q. And if he had reported anything about</p>	<p>1 That's what the normal path is, right?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And you find in your experience</p> <p>4 about that, what?</p> <p>5 A. Can you refine the question, please?</p> <p>6 Q. Yes, ma'am. Can we attribute all of</p> <p>7 those symptoms to mold just because we saw it?</p> <p>8 A. Well, perhaps if you had an allergic</p> <p>9 reaction and you didn't have a lot of rhinitis and then</p> <p>10 you were exposed and suddenly your symptoms really</p> <p>11 increased, perhaps.</p> <p>12 It's -- it's somewhat tricky to prove</p> <p>13 that with allergy testing and the like because -- I</p> <p>14 would think.</p> <p>15 Q. And it's tricky because we are exposed to</p> <p>16 a lot of different things all day long, day and night,</p> <p>17 and it's very tricky to determine what a particular</p> <p>18 thing is caused by when we're walking around; is that</p> <p>19 fair?</p> <p>20 A. In my experience, yes. An allergist may</p> <p>21 have a different answer to that.</p> <p>22 Q. All right. So moving back to Mr. Bean</p> <p>23 also did not have any complaints to you in 2016, that</p> <p>24 he had been experiencing headaches while he was in</p> <p>25 Mississippi, did he?</p>

10 (Pages 34 to 37)

Kim Emmett, M.D. 7/23/2019

Page 58

1 so you know, Mrs. Bean is also involved in a lawsuit in
2 Mississippi.

3 Did you know that, before this proceeding
4 today?

5 A. I did not know that before the end of
6 March.

7 Q. Okay. Well, she is. She is a plaintiff
8 in a lawsuit and among other things, she says that some
9 of her medical injuries, symptoms, were caused by
10 exposure to mold.

11 She mentions worsening of the COPD,
12 worsening of her allergies, headaches, breathing, her
13 being low on energy, anxiety and depression, among
14 other things. I'm just telling you that for your
15 information.

16 A. Okay.

17 Q. And the reason why I'm telling you is
18 because as we did with Mr. Bean, I want to talk to you
19 a little bit about the occasions on which you treated
20 Mrs. Bean for the same things before she ever moved to
21 Mississippi.

22 Do you understand where I'm coming from?

23 A. Yes.

24 Q. Okay. And the fact is that you did treat
25 Mrs. Bean for a long period of time before she moved to

Page 60

1 different complaints; is that right?

2 A. That's correct.

3 Q. Was one of those complaints that she had
4 had difficulty breathing?

5 A. Do you mean recently or prior?

6 Q. In that timeframe before she moved to
7 Mississippi, you had treated her or she had referenced
8 that she had COPD, emphysema, difficulty breathing and
9 that kind of thing, didn't she?

10 A. Well, I'm not sure she ever met the
11 criteria for COPD, but there were times when she came
12 in with a cough and she had some evaluation, but this
13 was prior to her move.

14 Q. Okay. Okay. And did that change after?

15 A. She did not come to see me primarily for
16 complaints of cough. Generally, her visits were
17 physical exams and I think she had an as-needed visit
18 for a breast lump.

19 Q. All right. One of the other things that
20 I noticed -- so -- so she would report to you about
21 shortness of breath, breathing troubles, that kind of
22 thing before she moved to Mississippi; is that fair?

23 A. Yes.

24 Q. Okay. And did you attribute those
25 complaints to any particular cause?

Page 59

1 Mississippi, correct?

2 A. Yes.

3 Q. And when did you begin treating her,
4 ballpark?

5 A. Well, I moved here in 1999, so it would
6 not have been before that. She was part of the
7 practice. She was a patient here, and I think some of
8 the first notes I saw a note, I think from 2000, 2002,
9 where I would have been talking to her and treating her
10 for sometime.

11 Q. All right. And did you pretty much
12 follow Mrs. Bean from 2000, 2002, up until the time of
13 2013 or so when she moved to Mississippi?

14 A. Yes.

15 Q. All right. And on -- in that timeframe,
16 can you give us ballpark guesstimate how many times you
17 saw her? Dozens?

18 A. Well, yes, maybe two dozen. Okay.

19 Q. It's enough to make a big stack of
20 records, wasn't it?

21 A. Yes.

22 Q. Okay. And you were Mrs. Bean's kind of
23 family doctor, right?

24 A. Yes, that's correct.

25 Q. And she came to you with a variety of

Page 61

1 A. Well, she has seen an allergist before.
2 This was in 2001, according to her record as well as an
3 ENT and she was diagnosed with allergic rhinitis and
4 eustachian tube dysfunction. This would have been
5 years ago.

6 Q. And what was she -- unpack that for me.
7 Do you recall what -- what -- when she
8 saw the allergist, what that resulted in?

9 A. May I look?

10 Q. Please. Please.

11 A. She has -- she had several conditions
12 that were -- and so some of these medical records
13 unfortunately are separated out into -- well, as I
14 recall what it was for, I'm sorry, I don't have the
15 note and it is, I believe his record has been produced
16 in the -- in what you all were given.

17 Having a cough, post nasal drip, runny
18 nose and the like, and she's had -- there's listings of
19 cough even prior to my assuming her care and had a
20 chest X-ray in 1998. So that was a concern for her
21 then.

22 Q. Okay.

23 A. She also said that she was having
24 troubles with a loss of a sense of smell. This would
25 have been 2001, and she has multiple diagnosis of

16 (Pages 58 to 61)

Kim Emmett, M.D. 7/23/2019

Page 66

1 A. Yes.
 2 Q. And then you see -- and you treated her
 3 for multiple kind of medical things arising from that,
 4 sinusitis, rhinitis, things of that nature; is that
 5 fair?
 6 A. She has had -- received treatment for
 7 that in the past, yes.
 8 Q. Okay. And we -- we've mentioned rhinitis
 9 before, but what is sinusitis?
 10 A. Well, that would be inflammation of the
 11 sinus cavities that are above the nose usually and
 12 within the skull, within the skull, and so it might be
 13 that some people have a bacterial infection or a viral
 14 infection.
 15 I think also people who have chronic
 16 rhinitis might have increased mucus secretion from
 17 their sinuses, so that could cause chronic
 18 inflammation.
 19 Q. All right. So they could be related to
 20 one another?
 21 A. Yes.
 22 Q. All right. Now, did Mrs. Bean have a
 23 history of smoking?
 24 A. Yes.
 25 Q. And how long did she smoke?

Page 68

1 A. I did review records --
 2 Q. All right.
 3 A. -- from 2004 on.
 4 Q. And can you tell us, a ball park, did you
 5 treat and did Mrs. Bean present with rhinitis in that
 6 period of time before she moved to Mississippi?
 7 A. It's mentioned at least three times in
 8 the records --
 9 Q. All right.
 10 A. -- prior to that move.
 11 Q. And what about complaints of sinusitis?
 12 A. At least two times in the records.
 13 Q. And what about complaints of shortness of
 14 breath?
 15 A. There was, I'm sorry, I counted about two
 16 times that there was acute shortness of breath.
 17 Q. All right. And what about other kind of
 18 upper respiratory things, were there notations in your
 19 records of -- that she was complaining of upper
 20 respiratory symptoms before she moved to Mississippi?
 21 A. At least twice --
 22 Q. All right.
 23 A. -- in the record.
 24 Q. Now, did you, and I hate to lump them all
 25 together, but did you attribute any of those symptoms

Page 67

1 A. According to the record, probably about
 2 20 years and then my most recent note says she stopped
 3 at age 40.
 4 Q. Even if you stop at age 40, can you have
 5 -- still have lingering effects from that?
 6 A. For a time.
 7 Q. Right. So in the -- let me kind of close
 8 this up with the period of time before Mrs. Bean moved
 9 to Mississippi.
 10 Did you treat Mrs. Bean for rhinitis in
 11 that timeframe?
 12 A. I would have to look through those notes
 13 because I can't see a med list on -- in my general
 14 computer. If you need me to stop and do that for a
 15 moment I can.
 16 Q. Sure, if you would. Let's go off the
 17 record.
 18 THE VIDEOGRAPHER: Off the record. It's
 19 9:25.
 20 (Off record discussion.)
 21 THE VIDEOGRAPHER: Back on the record.
 22 It's 9:27.
 23 BY MR. BOONE:
 24 Q. Dr. Emmett, have you had a chance to
 25 review the archive records from that period of time?

Page 69

1 to any particular causes or is that just kind of normal
 2 walking around symptoms that one might expect from a
 3 patient?
 4 A. Well, there are patients that have
 5 several upper respiratory infections a year. I don't
 6 think she was smoking at that time, which it seems that
 7 many people who smoke will have more bouts of sinusitis
 8 and upper respiratory infection.
 9 Q. Okay.
 10 A. And I think she had continued symptoms of
 11 rhinitis and postnasal drip during that time.
 12 Q. Okay. So it's fair to say that in your
 13 treatment of Mrs. Bean before she moved to Mississippi
 14 that she had complaints of rhinitis, sinusitis,
 15 shortness of breath, upper respiratory illnesses, fair?
 16 A. That's fair. Somewhere episodic. I
 17 think the rhinitis was probably ongoing.
 18 Q. All right. I want to turn your attention
 19 to the period of time now when Mrs. Bean returned from
 20 Mississippi and the first note that I have actually is
 21 from a hospital stay.
 22 Look on Exhibit 4.
 23 A. Okay.
 24 Q. Page 2572.
 25 A. 2572, okay.

18 (Pages 66 to 69)

Kim Emmett, M.D. 7/23/2019

Page 78

1 Did you ever see a record that she had
2 actually been diagnosed with COPD by anyone?
3 A. I did not see pulmonary function test
4 results. There may be something in the exhibit that's
5 from Mississippi, an office note in one of these
6 exhibits.
7 Q. Okay.
8 A. An outpatient office note.
9 Q. Okay.
10 A. I don't know where it is in this exhibit.
11 Q. Okay.
12 A. I think there was a few pages from an
13 outpatient evaluation.
14 Q. All right. Well, did you diagnose her
15 with COPD?
16 A. No.
17 Q. Okay. And sitting here today, do you
18 know whether anyone else has?
19 A. I do not.
20 Q. Okay. And COPD, is that caused by
21 smoking?
22 A. That's a contributor.
23 Q. Okay. I suppose there's other -- well,
24 is that the most common cause of COPD in your
25 experience?

Page 80

1 Q. And your next sentence says, "she is on
2 Singulair." And what does Singulair do?
3 A. Singular could help if there was a
4 component of asthma or it can help for allergic
5 rhinitis. Those are the two main indications for that
6 medicine.
7 It might -- it might help with COPD, but
8 that's not the definite indication for the medicine.
9 Q. Okay. That's a standard kind of allergy
10 medication --
11 A. Yes.
12 Q. -- right?
13 A. Yes.
14 Q. All right. What did she tell you about
15 her anxiety?
16 A. Let's see. Well, she has had anxiety
17 symptoms for more than five years. So this would have
18 been -- had been before she went to Mississippi.
19 Q. Okay.
20 A. And so I don't recall exactly how long
21 she had been on Zoloft or as needed, benzodiazepine,
22 but I think she had been on medication for longer than
23 five years for that condition.
24 Q. Okay. And the frequency she says is
25 several times per month?

Page 79

1 A. That's a common cause and there would be
2 more lung diseases that could cause shortness of breath
3 or cough.
4 Q. Right. And was Mrs. Bean a smoker?
5 A. She had smoked, yes, previously.
6 Q. For 20 years?
7 A. Roughly 20 years to the best of my
8 understanding.
9 Q. All right. Now, when she said -- you
10 wrote down "since she has returned to Tennessee her
11 symptoms are much better."
12 Do you see that?
13 A. Yes.
14 Q. Are those, again, are those her words?
15 A. Those are her words.
16 Q. Okay. So she says that her symptoms are
17 much better?
18 A. Yes.
19 Q. She did not say her symptoms had gone
20 away?
21 A. No, she just said they were better.
22 Q. I see. And we know that she is still
23 experiencing many of those symptoms because she's still
24 taking the medications for them, right?
25 A. Right.

Page 81

1 A. That would be for panic attacks. I would
2 say now, those would not be her words, but that she
3 experienced some level of anxiety daily without
4 medicines.
5 Q. Okay.
6 A. And that I believe would be longer than
7 five years.
8 Q. I see. So she had a generalized anxiety
9 all the time?
10 A. I think so, yes.
11 Q. Okay. And dating back from the period of
12 time before she moved to Mississippi?
13 A. Yes.
14 Q. And the panic attacks were sporadic in
15 that timeframe, but also dated back that far; is that
16 right?
17 A. Right. She had received medicine for --
18 for that prior to her move to Mississippi.
19 Q. Okay. And did she attribute those, that
20 anxiety and panic attack -- panic attacks to any
21 particular cause?
22 A. Not really, just more stress related.
23 Q. All right. And did you -- did you
24 attribute those to any particular cause or just more
25 stress related?

21 (Pages 78 to 81)

Kim Emmett, M.D. 7/23/2019

Page 94	Page 96
<p>1 Q. And the fact that she's on Singulair</p> <p>2 indicates that she's taking medication for those</p> <p>3 symptoms, right?</p> <p>4 A. Yes.</p> <p>5 Q. All right. And 2455.</p> <p>6 A. This is, I think her -- I'm so sorry, go</p> <p>7 ahead.</p> <p>8 Q. No, go ahead. This may be an office note</p> <p>9 from somewhere else.</p> <p>10 A. It says Walgreen's Health Care Clinic,</p> <p>11 Alcoa, Tennessee. And so this would have been like for</p> <p>12 an urgent care appointment.</p> <p>13 Q. Right. And what did she present with on</p> <p>14 February 26th of 2018?</p> <p>15 A. The description is acute bronchitis, and</p> <p>16 then it says viral.</p> <p>17 Q. All right.</p> <p>18 A. I'm sorry. They also included some</p> <p>19 medical patient information.</p> <p>20 Q. All right.</p> <p>21 A. So the body of the note may be progress</p> <p>22 note. It's on 2458. It says cough.</p> <p>23 Q. Okay. So that brings me to I think what</p> <p>24 is your last visit with Mrs. Bean.</p> <p>25 If you go to page 2428 in this exhibit.</p>	<p>1 coughing at times. So that was an additional statement</p> <p>2 she made --</p> <p>3 Q. Yes, ma'am.</p> <p>4 A. -- during that visit.</p> <p>5 Q. Okay. And she wanted to be tested for</p> <p>6 mold because she thought she was being exposed to mold</p> <p>7 currently, or do you recall?</p> <p>8 A. I don't recall the exact phrase, but I</p> <p>9 think she was still thinking about possible effects of</p> <p>10 mold exposure from Mississippi.</p> <p>11 Q. Okay. So was she saying that her current</p> <p>12 cough, coughing was attributable to her exposure to</p> <p>13 mold back in Mississippi?</p> <p>14 A. That's what she had -- that was what she</p> <p>15 was alluding to.</p> <p>16 Q. All right. But you did not make that</p> <p>17 connection in your opinion, correct?</p> <p>18 A. No.</p> <p>19 Q. This is just what she was reporting?</p> <p>20 A. Yes.</p> <p>21 Q. All right. And the assessment on page</p> <p>22 2425, assessment means --</p> <p>23 A. Well, listing of the problems potentially</p> <p>24 identified.</p> <p>25 Q. Right.</p>
Page 95	Page 97
<p>1 A. Okay.</p> <p>2 Q. Exhibit number four.</p> <p>3 A. 2428?</p> <p>4 Q. Yes, ma'am.</p> <p>5 A. Okay. Let's see. And the note starts</p> <p>6 on --</p> <p>7 Q. You may not have the beginning of it.</p> <p>8 A. I'm sorry. These electronic medical</p> <p>9 records, sometimes you have to put in a quote. The</p> <p>10 notes starts on 2423.</p> <p>11 Q. Okay.</p> <p>12 A. It's a Medicare wellness visit.</p> <p>13 Q. All right. And what's the date of that?</p> <p>14 A. March -- Wednesday, March 20th, 2019.</p> <p>15 Q. So that's back in this March of this</p> <p>16 year?</p> <p>17 A. Yes.</p> <p>18 Q. All right. And you see, do you have your</p> <p>19 same note for nasal congestion there?</p> <p>20 A. Yes.</p> <p>21 Q. And the same note relating to</p> <p>22 respiratory, correct?</p> <p>23 A. One additional sentence that she had</p> <p>24 brought up. She thought she might want to be tested</p> <p>25 for mold because she said she still had episodes of</p>	<p>1 A. Or symptoms. I'm sorry.</p> <p>2 Q. Okay. You indicate without -- encounter</p> <p>3 for general adult medical examination without abnormal</p> <p>4 findings, right?</p> <p>5 A. Yes.</p> <p>6 Q. What does that mean?</p> <p>7 A. It just means a code that you submit to</p> <p>8 the insurance form and it's just a descriptive code for</p> <p>9 subsequent wellness visit for Medicare patients.</p> <p>10 Q. Okay. And without abnormal findings</p> <p>11 means?</p> <p>12 A. Right. That there were not major</p> <p>13 abnormal findings during that exam.</p> <p>14 Q. Right. You also wrote down under your</p> <p>15 assessment, "anxiety disorder unspecified," right?</p> <p>16 A. Uh-huh. Yes.</p> <p>17 Q. 2425?</p> <p>18 A. I did. Yes, I see it.</p> <p>19 Q. And when had she first been diagnosed</p> <p>20 with anxiety disorder?</p> <p>21 A. Over five years ago.</p> <p>22 Q. All right. That was at the period of</p> <p>23 time before she moved to Mississippi?</p> <p>24 A. Yes.</p> <p>25 Q. And there are other things there, but you</p>

25 (Pages 94 to 97)

Kim Emmett, M.D. 7/23/2019

Page 98	Page 100
<p>1 also mention shortness of breath?</p> <p>2 A. As a symptom.</p> <p>3 Q. Yes. Had she also experienced shortness</p> <p>4 of breath before she moved to Mississippi?</p> <p>5 A. Well, she was diagnosed with pneumonia,</p> <p>6 so she would have experienced shortness of breath.</p> <p>7 This was before she moved to Mississippi.</p> <p>8 Q. Right.</p> <p>9 A. And I think shortness of breath is</p> <p>10 probably mentioned in a couple of her previous notes --</p> <p>11 Q. All right.</p> <p>12 A. -- from this practice.</p> <p>13 Q. So that was a long standing condition of</p> <p>14 hers before she went to Mississippi as well?</p> <p>15 A. I think it had been mentioned as a</p> <p>16 symptom.</p> <p>17 Q. Okay. I want to ask you about this next</p> <p>18 entry and it reads "Z-77.120, contact with an" in</p> <p>19 parentheses, "suspected exposure to mold", end</p> <p>20 parentheses, "toxic."</p> <p>21 Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. What is that, first of all? Is that a --</p> <p>24 A. That would be an ICD-10 code and that is</p> <p>25 the code you would use if you tested for it as a</p>	<p>1 Q. Let me ask. Would you need some kind of</p> <p>2 mold test or information about what levels of mold were</p> <p>3 present in a particular space?</p> <p>4 A. That would probably be helpful, but I</p> <p>5 don't know so far after the fact how valid it would be.</p> <p>6 Q. Okay. So even then, even if you had a</p> <p>7 mold test, they may not be enough is what you're</p> <p>8 saying?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And even if you had a photograph</p> <p>11 or whatever, that may not be enough?</p> <p>12 Is that what you're saying?</p> <p>13 A. Yes, that's what I'm saying.</p> <p>14 Q. Okay. So you would need information</p> <p>15 about the levels of mold that she was exposed to,</p> <p>16 correct?</p> <p>17 A. One of the things, yes, that's one of the</p> <p>18 things you would need.</p> <p>19 Q. But you would -- you doubt that you could</p> <p>20 get that information, especially after the fact, true?</p> <p>21 A. I doubt it.</p> <p>22 Q. All right. You would also need to know</p> <p>23 what symptoms she was reporting at the time, true?</p> <p>24 A. That is true.</p> <p>25 Q. Did you have or do you have any of that</p>
Page 99	Page 101
<p>1 justification to the insurance company, although I</p> <p>2 advised her I was not sure it would be covered by her</p> <p>3 insurance.</p> <p>4 Q. Okay. So let's unpack all of that.</p> <p>5 Are you making a diagnosis that she has</p> <p>6 been exposed to mold or is that a code that you use to</p> <p>7 say if you wanted to order tests for that, that's what</p> <p>8 you have to show?</p> <p>9 A. That would be more if you had to order</p> <p>10 tests for it, that would be your reason behind it.</p> <p>11 Q. Okay. So in the event that you wanted to</p> <p>12 order tests for mold exposure, you need to write this</p> <p>13 code down so that -- so that they can get paid for it.</p> <p>14 Is that basically it?</p> <p>15 A. Potentially. Yes, it would be a code you</p> <p>16 would use.</p> <p>17 Q. All right. Are you making an opinion</p> <p>18 that she was exposed to mold?</p> <p>19 A. No.</p> <p>20 Q. And why aren't you making that opinion?</p> <p>21 A. I would not have enough data to prove</p> <p>22 that her symptoms were related to exposure to mold.</p> <p>23 Q. And what data and proof would you need to</p> <p>24 prove that her symptoms were exposed to mold?</p> <p>25 A. It would still be difficult.</p>	<p>1 information?</p> <p>2 A. Not the -- another provider. Not from</p> <p>3 another provider evaluation.</p> <p>4 Q. Right. So you would, if you were looking</p> <p>5 at this after the fact, you would want to look and see</p> <p>6 what she was actually reporting at the time, true?</p> <p>7 A. Yes.</p> <p>8 Q. And you don't have that information,</p> <p>9 right?</p> <p>10 A. I do not.</p> <p>11 Q. But even if you had the information about</p> <p>12 what she -- what symptoms she was reporting, you would</p> <p>13 need to know what all of the other potential causes</p> <p>14 were that could result in that symptom; is that true?</p> <p>15 A. That's true.</p> <p>16 Q. And then you would need to rule out every</p> <p>17 other potential cause leaving only exposure to mold; is</p> <p>18 that fair?</p> <p>19 A. Yes.</p> <p>20 Q. That's called a differential diagnosis,</p> <p>21 right?</p> <p>22 A. Yes.</p> <p>23 Q. And for someone who has multiple</p> <p>24 allergies, that would be difficult, if not impossible;</p> <p>25 is that fair?</p>

26 (Pages 98 to 101)

Kim Emmett, M.D. 7/23/2019

Page 118	Page 120
<p>1 antibody panel two is.</p> <p>2 A. Uh-huh.</p> <p>3 Q. What is it?</p> <p>4 A. They just look at antibody levels to some</p> <p>5 molds that could cause significant illness.</p> <p>6 Q. And are these -- would these be the</p> <p>7 current antibody levels in a person's blood?</p> <p>8 A. Yes.</p> <p>9 Q. And is that evidence that the person is</p> <p>10 currently being exposed to those things?</p> <p>11 A. Not necessarily.</p> <p>12 Q. I guess what I'm -- my real question is,</p> <p>13 what information would that provide you or provide her</p> <p>14 that would be helpful?</p> <p>15 A. Well, if it was low or negative, it would</p> <p>16 provide her some help for information that perhaps her</p> <p>17 symptoms were not related to a serious mold infection.</p> <p>18 Q. Do the presence of antibodies on this</p> <p>19 test, whatever result you get, does it indicate that</p> <p>20 you are susceptible to exposure to those kinds of</p> <p>21 things or is it like an allergy test or what is it?</p> <p>22 A. It's not an allergy test. It would just</p> <p>23 be some evidence that somebody might have had a</p> <p>24 previous mold exposure.</p> <p>25 Q. So does the existence of an antibody</p>	<p>1 I'm trying to understand what this --</p> <p>2 A. Yes.</p> <p>3 Q. -- would even provide.</p> <p>4 And basically what you're telling me is</p> <p>5 that, Dr. Emmett, even if you were sitting here with</p> <p>6 the results from the -- the fungal antibody panel --</p> <p>7 A. Right.</p> <p>8 Q. -- that you suggested, and those results</p> <p>9 showed that she had antibodies for a particular type of</p> <p>10 mold, you would not be able to link those to any</p> <p>11 particular exposure either yesterday or six months ago</p> <p>12 or two years ago; is that true?</p> <p>13 A. I probably could not.</p> <p>14 Q. All right. What was the end result of</p> <p>15 the mold test back and forth?</p> <p>16 Did that information get provided to</p> <p>17 Mrs. Bean?</p> <p>18 A. I believe so, and I think I said that</p> <p>19 advised -- provided the order, but she would have to</p> <p>20 come in for a blood sample and I've looked and there's</p> <p>21 not been any lab appointment made, so I don't think she</p> <p>22 came in --</p> <p>23 Q. All right.</p> <p>24 A. -- beyond that.</p> <p>25 Q. So I appreciate your patience this</p>
Page 119	Page 121
<p>1 today indicate that somebody may have been exposed to</p> <p>2 mold three years ago?</p> <p>3 A. It might not be able to tell a definite</p> <p>4 timeline on that.</p> <p>5 Q. That's -- I guess that's really what my</p> <p>6 question was. If you take my antibodies today --</p> <p>7 A. Right.</p> <p>8 Q. -- and I show that I have an antibody</p> <p>9 that's in response to a mold --</p> <p>10 A. Right.</p> <p>11 Q. -- would we ever be able to -- does that</p> <p>12 mean that I'm exposed to a mold like recently or can</p> <p>13 that mean that I was exposed to a mold two years ago,</p> <p>14 or do you know?</p> <p>15 A. You might not be able to be definite, but</p> <p>16 there are some conditions where certain molds like</p> <p>17 Coccidioides is not usually present in this part of</p> <p>18 Tennessee, so somebody might have been exposed</p> <p>19 elsewhere and that might be considered unusual for this</p> <p>20 area.</p> <p>21 But no, it probably cannot specify a</p> <p>22 definite date when one would have been exposed.</p> <p>23 Q. Okay.</p> <p>24 A. And of course, I'm a primary care doctor.</p> <p>25 Q. Oh, look, I understand that. I'm just --</p>	<p>1 morning. I do have some kind of follow-up questions to</p> <p>2 kind of wrap it all up and then I'm going to turn it</p> <p>3 over to some other folks who may have some questions</p> <p>4 but --</p> <p>5 A. Okay.</p> <p>6 Q. -- I want to see if I understand what we</p> <p>7 have discussed this morning.</p> <p>8 You treated Mr. Bean for fatigue,</p> <p>9 rhinitis and those kinds of things before he even left</p> <p>10 for Mississippi, correct?</p> <p>11 A. Yes.</p> <p>12 Q. And you treated him for those same</p> <p>13 symptoms after he came back from Mississippi, correct?</p> <p>14 A. As I mentioned, yes.</p> <p>15 Q. And you did not treat Mr. Bean during the</p> <p>16 time that he was gone to Mississippi?</p> <p>17 A. I did not.</p> <p>18 Q. And you don't know what symptoms he</p> <p>19 reported, if any, while he was in Mississippi?</p> <p>20 A. I do not.</p> <p>21 Q. And you don't know the conditions of the</p> <p>22 home that Mr. Bean lived in, mold tests, any evidence</p> <p>23 at all about what those circumstances were while he was</p> <p>24 in Mississippi, correct?</p> <p>25 A. I do not have that knowledge.</p>

31 (Pages 118 to 121)

Kim Emmett, M.D. 7/23/2019

Page 122	Page 124
<p>1 Q. And you don't know any of the other facts</p> <p>2 or circumstances that would be necessary to make a</p> <p>3 differential diagnosis as to the cause of any symptoms</p> <p>4 Mr. Bean had while he lived in Mississippi, fair?</p> <p>5 A. I do not have.</p> <p>6 Q. And though, so therefore, you can't</p> <p>7 testify to a reasonable degree of medical certainty</p> <p>8 whether any symptoms that Mr. Bean complained of were</p> <p>9 caused by exposure to mold in his home at Keesler Air</p> <p>10 Force Base, true?</p> <p>11 A. I cannot testify to that.</p> <p>12 Q. All right. And the same with respect to</p> <p>13 Mrs. Bean, you treated her for rhinitis, sinusitis,</p> <p>14 shortness of breath and other issues before she left</p> <p>15 for Mississippi, right?</p> <p>16 A. Yes.</p> <p>17 Q. And you treated her for those same</p> <p>18 symptoms after she came back from Mississippi, right?</p> <p>19 A. I don't recall a sinusitis.</p> <p>20 Q. Okay. But the other ones you did?</p> <p>21 A. Yes, she received medicine for allergic</p> <p>22 rhinitis.</p> <p>23 Q. All right. And you did not treat</p> <p>24 Mrs. Bean while she was in Mississippi, right?</p> <p>25 A. I did not.</p>	<p>1 true?</p> <p>2 A. I cannot.</p> <p>3 MR. BOONE: Those are all the questions I</p> <p>4 have and there may be others from some other</p> <p>5 folks.</p> <p>6 THE WITNESS: Okay.</p> <p>7 THE VIDEOGRAPHER: Let's go off the</p> <p>8 record, and make a change.</p> <p>9 MR. BOONE: All right.</p> <p>10 THE VIDEOGRAPHER: Off the record. It's</p> <p>11 10:39. This is the end of DVD number two.</p> <p>12 (Off record discussion.)</p> <p>13 THE VIDEOGRAPHER: All right. Back on</p> <p>14 the record. It's 10:39. This is the beginning of</p> <p>15 DVD number three.</p> <p>16 MR. BOONE: Taylor, do you have any</p> <p>17 questions, do you want --</p> <p>18 MS. WHITE: I do. Do you want me to go</p> <p>19 ahead?</p> <p>20 MR. BOONE: Yeah, I think -- Scott, if</p> <p>21 it's okay, why don't we let Taylor go and then you</p> <p>22 can go after that.</p> <p>23 MR. WELLS: Okay, that sounds great.</p> <p>24 MR. BOONE: Okay, good.</p> <p>25 MS. WHITE: Scott, can you hear me okay?</p>
Page 123	Page 125
<p>1 Q. Nor have you reviewed in detail all of</p> <p>2 her medical records from that period.</p> <p>3 A. I have not.</p> <p>4 Q. So you don't know what symptoms, if any,</p> <p>5 she complained of while she lived in Mississippi,</p> <p>6 right?</p> <p>7 A. Right.</p> <p>8 Q. Do you know what evidence there was as to</p> <p>9 the cause or circumstances of any of those symptoms</p> <p>10 while she was living in Mississippi?</p> <p>11 A. I'm sorry, can you say that again?</p> <p>12 Q. Yes, ma'am. You don't have any</p> <p>13 information about the cause or circumstances of any of</p> <p>14 the symptoms she did report while she was living in</p> <p>15 Mississippi, true?</p> <p>16 A. Not other than her report.</p> <p>17 Q. Right. And so for that reason you have</p> <p>18 not performed and don't have enough information to do a</p> <p>19 differential diagnosis on any symptoms she had while</p> <p>20 she was in Mississippi, fair?</p> <p>21 A. That's fair.</p> <p>22 Q. So at the end of the day, you can't</p> <p>23 testify to a reasonable degree of medical certainty</p> <p>24 that any of the Beans, Mr. Bean or Mrs. Bean's medical</p> <p>25 symptoms were caused by exposure to mold in their home,</p>	<p>1 MR. BOONE: He's probably on mute.</p> <p>2 MS. WHITE: Okay.</p> <p>3 MR. WELLS: I couldn't hear anything, if</p> <p>4 you just spoke. I'm not on mute at the moment.</p> <p>5 MR. BOONE: Just go ahead and speak. If</p> <p>6 he can hear me, he can hear you.</p> <p>7 MS. WHITE: Okay.</p> <p>8 EXAMINATION BY MS. WHITE:</p> <p>9 Q. Okay. Dr. Emmett, my name is Taylor</p> <p>10 White. I represent Forest City Residential Management</p> <p>11 Company and I have just a very few questions and bear</p> <p>12 with me, I'm going to jump around just a little bit.</p> <p>13 A. Okay.</p> <p>14 Q. If you will look back with me at</p> <p>15 Exhibit 5.</p> <p>16 A. Yes.</p> <p>17 Q. This is a letter, right, that Miss Bean</p> <p>18 wrote to you on March 25th, 2019?</p> <p>19 A. Yes.</p> <p>20 Q. Look with me about halfway down the page</p> <p>21 where it says, "my lungs have not been at the capacity</p> <p>22 they were before I moved and lived in that housing unit</p> <p>23 for two years."</p> <p>24 First of all, you testified earlier that</p> <p>25 sometimes people when they're administered a peak test</p>

32 (Pages 122 to 125)